

**REGULATIONS REGARDING THE DELEGATION OF AUTHORITY FROM THE
MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY TO THE
EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY**

MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY

Adopted May 24, 2001

Amended March 27, 2003

I. Introduction

Statutes regarding environmental and natural resources issues in Mississippi grant the Mississippi Commission on Environmental Quality ("Commission") broad discretion to delegate many of its statutory authorities to the Executive Director of the Mississippi Department of Environmental Quality ("MDEQ"). Since the creation of the Commission and its predecessor bodies, the Mississippi Air and Water Pollution Control Commission and the Mississippi Commission on Natural Resources, the Commission has delegated certain authorities to the Executive Director by agency action reflected in the minutes of the Commission. The Commission now consolidates these delegations, adds additional delegations, and promulgates these delegations as a regulation pursuant to the Mississippi Administrative Procedures Law.

The chart below describes specific delegations of authority and lists the most pertinent statutory authorization for the delegation. The Commission, however, also is given a broad general authority to delegate its authority by Miss. Code Ann. § 49-17-17(o). That section authorizes the Commission "to delegate in such manner as it sees fit the duties and powers relating to air and water quality and pollution control to the agency members presently engaged in the several fields of water or air control or pollution." Miss. Code Ann. § 49-17-17(n) authorizes the Commission to "exercise all incidental powers necessary to carry out the purposes of Sections 49-17-1 through 49-17-43 and Sections 17-17-1 through 17-17-47." The Commission interprets these statutes to allow the delegation of authority to the Executive Director to perform all actions within the jurisdiction of the Commission required to protect the quality and quantity of the state's water resources and the quality of the state's ambient air and to regulate solid nonhazardous and hazardous waste within the State. This delegation authority by definition allows delegation of authorities related to the three offices of MDEQ created by statute: The Office of Geology and Energy Resources, the Office of Land and Water Resources, and the Office of Pollution Control. *See* Miss. Code Ann. § 49-2-7.

The Commission also interprets these statutes as allowing the delegation to the Executive Director of authorities necessary to perform the day-to-day functions of MDEQ through the Office of Administrative Services, as created by Miss. Code Ann. § 49-2-17. Additionally, Miss. Code Ann. § 53-7-19(p) allows the Commission to authorize the director "to discharge or

exercise any power or duty granted to the commission by the provisions” of the Surface Mining and Reclamation Law.

This regulatory action is not intended to revoke any authorization previously granted to the Executive Director and not listed in this regulation.

The delegation of authority to the Executive Director does not require the Executive Director to exercise the authority delegated. The Executive Director may determine, on a case-by-case basis, that a decision within his or her authority to make should be referred to the Commission for consultation and/or decision.

II. Delegations

The Commission delegates the following powers to the Executive Director of MDEQ:

DELEGATION

AUTHORITY¹

to employ qualified professional personnel and technical and clerical staff as may be required for the operation of the department	49-2-13(e)
to organize the administrative units of the department and alter such organizational structure and reassign responsibilities as he may deem necessary to carry out the policies of the commission within the limits of Section 49-2-7	49-2-13(c)
to delegate the authority to sign Commission orders to the Head of the Office of Pollution Control, the Head of the Office of Geology and Energy Resources, the Head of the Office of Land and Water Resources, and the General Counsel of MDEQ, to the extent that the Executive Director is allowed to issue orders pursuant to Miss. Code Ann. § 49-2-13(j)	49-2-13(j)

¹Authorities listed in this section are not exclusive and are in addition to authorities listed in Section I., above.

to issue orders in accordance with Section 17-17-227 approving or denying in whole or in part solid waste management plans and/or amendments thereof,	17-17-227, 49-2-13(j)
to issue administrative orders: <ul style="list-style-type: none"> • to prohibit, control or abate discharges of contaminants and wastes into the air and waters of the state • to require appropriate remedial measures to prevent, control or abate air and water pollution or to cause the proper management of solid wastes • to impose penalties which the respondent agrees to pay • to require compliance with permits and regulations • to issue emergency orders pursuant to Section 49-17-27 	49-2-13(j)
to execute all orders required by the brownfields statute that are not specifically required by statute and/or regulation to be issued by the full Commission	49-35-11(4); 49-2-13(j)
to issue cease pumping orders and orders conditioning permitted water withdrawals	51-3-7; 49-2-13(j)
to issue cease and desist orders to surface mining operators who are mining without the required permit or notice of intent to mine or who are otherwise operating in violation of Mississippi law	53-7-19(l), (m); 49-2-13(j)
to make preliminary determinations necessary to file suit, file suit, conduct litigation, and settle all litigation matters on behalf of the Commission	49-2-9(e) and (f), 49-2-13(k), 49-17-17(c) and (o), 49-17-44.1
to enter into all contracts, grants and cooperative agreements allowed by 49-2-9(e)	49-2-9(e)

to delegate signature authority for agency contracts, purchase orders, travel reimbursement authorizations, requisitions, personnel forms, and similar documents to the Head of the Office of Administrative Services and/or to the Division Chiefs within that Office	49-2-17; 49-17-17(n), (o)
to grant continuances for scheduled formal hearings; to issue nondispositive rulings regarding contested matters (such as, scheduling orders and decisions on interlocutory motions), and to stay pending evidentiary hearing the effectiveness of a commission order upon a showing of good cause by any party	49-2-5(3); 49-2-13(j)
to issue asbestos certifications and approve asbestos abatement training programs	37-138-9; 49-2-13(j)
to issue UST certifications to individuals authorized to install, alter and/or close USTs	49-17-429; 49-2-13(j)
to issue landfill (solid waste) operator certifications	21-27-211; 49-2-13(j)
to issue wastewater operator certifications and approve wastewater training programs	21-27-207; 49-2-13(j)
to issue water well driller licences	51-5-1(1) and (5); 49-2-13(j)
to issue lead certifications and approve lead-based paint activities training programs	49-17-507; 49-2-13(j)
to issue waste tire transporter certificates	17-17-407(b); 49-2-13(j)
to requisition and use funds in the Pollution Emergency Fund, Solid Waste Corrective Action Trust Fund, and all other Funds created by Title 17 and Title 49 and within the jurisdiction of the commission for the statutory purposes allowed by the Code	49-17-43(d) and 49-17-68; 17-17-63; et al.
to discharge or exercise any power or duty granted to the commission by the provisions of the Surface Mining and Reclamation Law	53-7-19(p)

to negotiate state land mineral lease terms and present negotiated terms to the commission for approval in noncompetitive lease situations	29-7-3
to execute division orders covering oil, gas and other minerals and approve applications for seismic surveys	29-7-3
to execute reciprocity agreements with other states whose lead based paint program requirements meet or exceed the Commission's requirements	49-17-507(i) and 49-17-531
to waive the late penalty for failure to pay UST fee upon sufficient demonstration that failure to pay timely was unavoidable due to financial hardship or otherwise beyond the control of the owner	49-17-421
to compile and publish compilations of the regulations of the Commission and Permit Board	49-17-23
to issue permit transfers of all permits required by the Surface Mining and Reclamation Law	53-7-19(p)
to make determinations regarding the feasibility of establishing community sewerage systems upon the submission by the developer of a preliminary design and feasibility study	41-67-4

to approve and award Local Governments Solid Waste Assistance Grants (Competitive Grants and Non-Competitive Grants), Local Governments Waste Tire Collection and Clean Up Grants, Local Government Tire Derived Products Grants, Incentive Waste Tire Recycling and Research Grants, Local Government Planning Grants, Right Way To Throw Away Grants (Local Hazardous Waste Amnesty/Collection Event Grants); and Pollution Prevention/Recycling Grants otherwise allowed by law

49-17-17(n), (o)